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In re Application of: WEDI, et al.
U.S. Application No.: 10/588,482
PCT No.: PCT/EP04/13591
Int. Filing Date: 30 November 2004
Priority Date: 12 February 2003
Attorney Docket No.: 2006_1196A
For: ENCODING AND DECODING OF VIDEO
IMAGES BASED ON A NON-LINEAR
QUANTIZATION

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Petition (under 37 CFR 1.181) to Withdraw the Holding of Abandonment" filed 18 December 2008 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 04 August 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 12 March 2008, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 05 December 2008, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification of Missing Requirements mailed 12 March 2008 within the time period set therein.

On 18 December 2008, applicant filed "Petition (under 37 CFR 1.181) to Withdraw the Holding of Abandonment."

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides the grounds that an Office action was not received:

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

Applicant has provided a statement that the Form PCT/DO/EO/905 was never received; explained that a search of the file jacket and application contents revealed that the Form PCT/DO/EO/905 had not been received; and included a copy of the relevant docket record. Further, applicant has provided a statement describing the firm's docketing system and that the docketing system is sufficiently reliable. Thus, applicant has provided the proper showing necessary to withdraw the holding of abandonment and the petition may be properly granted.

CONCLUSION

Applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 is GRANTED.

This application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicant that an oath or declaration of the inventors in compliance with 37 CFR 1.63 along with a \$130.00 surcharge for the filing of an oath or declaration later than thirty months must be submitted in order to avoid abandonment of the application.



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